

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

JIMMY DEAN BALENTINE,)	
Register No. 516421,)	
)	
Plaintiff,)	
)	
v.)	No. 04-4012-CV-C-NKL
)	
DAVE DORMIRE, et al.,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Plaintiff, an inmate confined in a Missouri penal institution, commenced this action under the Civil Rights Act of 1871, 42 U.S.C. § 1983, and the jurisdictional statute, 28 U.S.C. § 1343. This case was referred to the undersigned United States Magistrate Judge for processing in accord with the Magistrate Act, 28 U.S.C. § 636, and L.R. 72.1.

A review of the record indicates defendant Mrs. Hedge has not been served with process. Fed. R. Civ. P. 4(m) provides:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

Plaintiff was granted leave to proceed in forma pauperis on March 24, 2004. It has been more than 120 days since plaintiff's complaint was filed naming Mrs. Hedge as a defendant. On February 28, 2005, plaintiff was directed to furnish the information necessary to obtain service of process on defendant Hedge. Plaintiff failed to respond to that order and on April 6, 2005, plaintiff was directed to show cause why his claims against defendant Mrs. Hedge should not be dismissed, pursuant to Fed. R. Civ. P. 4(m).

Plaintiff has not complied with the orders entered on February 28 and April 6, 2005, has not supplied the address where defendant Hedge can be served, or completed forms for

the United States Marshal to serve process. Absent some reasonable explanation, plaintiff's claims against defendant Hedge should be dismissed, pursuant to Fed. R. Civ. P. 4(m).

IT IS, THEREFORE, RECOMMENDED that plaintiff's claims against defendant Mrs. Hedge be dismissed, pursuant to Fed. R. Civ. P. 4(m).

Under 28 U.S.C. § 636(b)(l), the parties may make specific written exceptions to this recommendation within twenty days. If additional time is needed, a motion for an extension of time must be filed within twenty days. The motion should state the reasons for the request. *See Nash v. Black*, 781 F.2d 665, 667 (8th Cir. 1986) (citing *Thomas v. Arn*, 474 U.S. 140 (1985)); *Messimer v. Lockhart*, 702 F.2d 729 (8th Cir. 1983). Failure to make specific written exceptions to this report and recommendation may result in a waiver of the right to appeal.

Dated this 3rd day of May, 2005, at Jefferson City, Missouri.

/s/ _____

WILLIAM A. KNOX
United States Magistrate Judge